

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In the Matter of )  
 )  
United States Telephone Association ) CC Docket No. 96-45  
Petition for Clarification of section 54.201 )  
of the Commission's rules )

COMMENTS

The National Exchange Carrier Association, Inc., (NECA)<sup>1</sup> supports the United States Telephone Association's (USTA) petition for clarification of rules governing the designation of "eligible telecommunications carriers" for purposes of universal service funding.<sup>2</sup>

Section 214(e) of the Telecommunications Act of 1996 (the Act) requires that a State commission, either on its own motion or upon request, designate as an "eligible telecommunications carrier" (ETC) a common carrier that offers and advertises universal services throughout a designated service area.<sup>3</sup> Pursuant to the Act's section 254(e) and the Commission's rules, only such designated ETCs will be able to receive federal universal service

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<sup>1</sup> NECA is a not-for-profit association that prepares access charge tariffs, and collects and distributes access charge revenues, on behalf of over 1,300 exchange carriers pursuant to Subpart G of Part 69 of the Commission's rules. NECA and its Universal Service Administrative Company subsidiary also administer or assist with various federal and state universal service support programs, among other related activities.

<sup>2</sup> United States Telephone Association Petition for Clarification of Section 54.201 of the Commission's Rules, CC Docket No. 96-45 (fil. Dec. 11, 1997) (*USTA Petition*).

<sup>3</sup> 47 U.S.C. § 214(e).

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support after January 1, 1998.<sup>4</sup>

As of the date of these comments, with few days left in the year, a significant number of local exchange carriers (LECs) are still awaiting ETC designation from state commissions.<sup>5</sup> In addition, some LECs not subject to state jurisdiction are awaiting designation from the Commission.<sup>6</sup> It appears likely that a significant number of carriers that currently depend on universal service fund expense adjustments under § 36.631 of the Commission's rules, DEM weighting support under § 36.125 of the Commission's rules, and Long Term Support under § 69.612 of the Commission's rules, may not secure ETC status by January 1, 1998.<sup>7</sup>

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<sup>4</sup> See 47 U.S.C. § 254(e); 47 C.F.R. § 54.201; Federal-State Joint Board on Universal Service, *Report and Order*, CC Docket No. 96-45, 62 Fed. Reg. 32862 at ¶¶ 127-149 (1997) (*Universal Service Order*). See also *Public Notice*, DA 97-1892 (rel. Sept. 29, 1997) at 2 (explaining that states should submit a list of ETCs to the Universal Service Administrative Company (USAC) no later than December 31, 1997); *Public Notice*, DA 97-2383 (rel. Nov. 12, 1997) at 2 (explaining that existing carriers, both rural and non-rural, must be designated as eligible in order to continue to receive federal high cost and low income support after January 1, 1998). Although the Commission's September 29 *Public Notice* appears to require states to submit a list of ETCs to USAC no later than December 31, 1997, to enable carriers to receive universal service support by January 1, 1998, NECA notes that the Commission's rules do not themselves prohibit states from issuing retroactive eligibility determinations.

<sup>5</sup> Several states and territories have not yet completed their proceedings to determine ETC status, including Wisconsin and Ohio. Of those states and territories that have completed proceedings, many have not yet submitted their list of ETCs to USAC.

<sup>6</sup> Under legislation recently signed into law, the Commission itself may designate carriers that are not subject to state jurisdiction (e.g., carriers owned by Native American tribes and certain telephone cooperatives). See Public Law 105-125 (Dec. 1, 1997) <<http://thomas.loc.gov/cgi-bin/bdquery/z?d105:SN01354;|TOM:/bss/d105query.html>>. It remains unclear, however, whether the Commission will be able to complete the designation process for these entities by January 1, 1998. Grant of the relief requested herein would, of course, clarify that the Commission also may designate carriers as eligible on a retroactive basis.

<sup>7</sup> In filing revised tariff rates to be effective January 1, 1998, NECA assumed that all its pool members would be designated as eligible because they currently serve as carriers of last resort. In the event that any substantial number of NECA pool members are not determined to be

NECA agrees with USTA that section 54.201 of the Commission's rules should be clarified to permit states to designate ETCs and to submit ETC lists to USAC through March 31, 1998, and that designations received by that date should be treated as retroactive to January 1, 1998. This would enable states to complete eligibility proceedings in a timely and thorough manner, and would avoid unnecessary and potentially harmful disruptions to universal service.

Respectfully submitted,

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December 22, 1997

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eligible, NECA may be required to file further modifications to the rate levels proposed in its tariff.

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Comments was served this 22nd day of December, 1997, by mailing copies thereof by United States Mail, first class postage paid or by hand delivery, to the persons listed below.

By: Perry S. Goldschein  
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